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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,017	03/07/2005	Dietmar Schratt	SCHRATT	2263
20151	7590	10/06/2005	EXAMINER	
HENRY M FEIEREISEN, LLC			BRAHAN, THOMAS J	
350 FIFTH AVENUE			ART UNIT	
SUITE 4714			PAPER NUMBER	
NEW YORK, NY 10118			3654	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/527,017

Applicant(s)

SCHRATT ET AL.

Examiner

Thomas J. Brahan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/7/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following structures must be shown, or the features must be canceled from the claims. No new matter may be entered.

- The structure of the shiftable telescopic arm and its spreader of claim 11.
- The single level intermediate storage facility of claim 13.
- The identical grippers of claim 16.
- The structure for the pivoting the cargo about a vertical axis of claim 19.
- The structure for the pivoting the cargo about a horizontal axis of claim 20.
- The rail systems and center of gravity relationships of claims 25 and 26.
- The positioning transmitters of claims 28 and 29.

2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 11-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The structural details of following features are not fully understood. No new matter may be entered.

- The telescopic arm as well as its spreader (claim 11).

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- The structure for pivoting the cargo about a vertical axis (claim 19).
 - The structure for pivoting the cargo about a horizontal axis (claim 20).
 - The structures of the second hoist as to have it move the cargo with a center of gravity above a single rail (claim 25) or several rails (claim 26) are unclear. No such center of gravity relationship is evident from the drawing.
5. The following is a quotation of the second paragraph of 35 U.S.C. § 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
6. Claims 11-31 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- In claim 11, the limitation “e.g. container, interchangeable body structure for a truck” fails to positively recite the claimed invention.
 - It is unclear as to how claims 13-16 further limit the claimed invention, a method for loading and unloading long distance transportation means, as these claims are devoid of method steps.
 - In claim 21, it is unclear as to how the cargo can be moved from the first transportation means using the rails of the second transportation means using the rails. Claim 21 has not been further treated on the merits with rejections based upon prior art.
 - It is unclear as to what applicant is considering as pre-positioning the cargo, as recited in claim 24.
 - It is unclear as to how applicant is considering the cargo moved with its center of gravity above a single rail, as recited in claim 25, or above several rails, as recited in claim 26. Claims 25 and 26 have not been further treated on the merits with rejections based upon prior art.
 - Claims 30 and 31 are indefinite as they appear to be redundantly adding additional lifting and lowering operations which are already included in claim 11.
7. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
- This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was

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commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

8. Claims 11-14, 16-20, 22-24 and 27-31, as best understood, are rejected under 35 U.S.C. § 103(a) as being unpatentable over Fuchtey et al in view of Brickner et al. Fuchtey et al shows the basic claimed facility for moving containers to and from long distance transportation means (trucks and trains) including various intermediate storage facilities and transfer zones. It varies from the claims by not stating that the first step of the method is the identification of the cargo as it is taken off of the first long-distance transportation means, and by not specifying that the hoist means that unloads the first long-distance transportation means later loads the second long-distance transportation means. Brickner et al shows a similar load handling system with a container identification system, see column 9, lines 30-38. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the transfer and storage facility of Fuchtey et al by providing it with container identification readers, for automated computer controlled handling of container at the facility, as taught by Brickner et al. The path that a container takes during transfer, as to be removed from a vehicle to a common transfer zone (by a first hoist means (one of the rail-guided hoists 26 or 27), then moved from the transfer zone to an intermediate storage facility (29) by a second hoist means (hoist 28 with shiftable telescopic arm) and then transferred to the second vehicle with the same two hoists, would have been one of the obvious routines used to handle the cargo, depending upon the arrival and departure schedules of the vehicles. The identifying step of Brickner et al is automatic, as recited in claim 12. The method could be done using just one of the levels of intermediate storage facilities (29), as recited in claim 13, or by using both levels, as recited in claim 14, as these claims are best understood. The first and second hoists of Fuchtey et al have identical grippers, see column 3, lines 12-18, as recited in claim 16. The second hoist (28) moves the cargo with horizontal and vertical movements, as recited in claims 17 and 18. All the hoists (26-28) of Fuchtey et al pivot the cargo about a vertical axis (34a) as to have the first hoist (26 or 27) pivot the cargo about a vertical axis, as recited in claim 19. They also pivot the cargo about a horizontal axis (34b in the drawings; 35a in the specification) as to have the first hoist (26 or 27) pivot the cargo about a horizontal axis, as recited in claim 20. The hoists are rail mounted to move along the intermediate storage facility in parallel relationships, as recited in claims 22 and 23. The cargo is considered as pre-positioned, as claim 24 is best understood. Re claims 27-29, it would further have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to provide the hoists of Fuchtey et al with position transmitters, to accurately control their movements and inhibit movements that avoid collisions, as also taught by Brickner et al, see column 12, lines 52-61, and column 18, lines 15-42. Both Fuchtey et al and Brickner et al having automatic lifting and lowering operations, as claims 30 and 31 are best understood.

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9. Claim 15, as best understood, is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fuchtey et al in view of Brickner et al, as applied above and further in view of Lassig (cited by applicant) or by Carder. Fuchtey et al, as modified, shows the basic claimed facility for moving containers to and from long distance transportation means, but varies from the claims by not having a rack system at the intermediate storage facilities (29). Lassig shows a similar load handling system with a storage facility with a rack (10). Carder et al shows a similar load handling system with a storage facility with a rack (40). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the storage areas (29) of Fuchtey et al by providing them with racks, to increase their storage capacity, as taught by Lassig or as taught by Carder et al.

10. Abel et al, Singer et al and Dobner et al are cited as showing related cargo transfer systems.

11. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas J. Brahan
Primary Examiner
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